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November 26, 2008

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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NOV 26 2008

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Re: Registration of Conservation Service providers;  
Docket No. C-2008-2074154**

Dear Secretary McNulty:

Enclosed are an original and fifteen (15) copies of the Comments of West Penn Power Company d/b/a Allegheny Power in the above-referenced proceeding.

Very truly yours,

*John L. Munsch*  
John L. Munsch  
Attorney

JLM/her  
Enclosures

cc: Certificate of Service

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LAW BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Implementation of Act 129 of 2008  
Phase 2 – Registry of Conservation Service  
Providers**

**: Docket No. M-2008-2074154**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26th day of November, 2008, a true and correct copy of West Penn Power Company's Comments was served by UPS Overnight Delivery upon the following:

Office of Consumer Advocate  
555 Walnut Street  
Forum Place, Fifth Floor  
Harrisburg, PA 17101-1923

Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Energy Association of Pennsylvania  
800 North Street – 3<sup>rd</sup> Floor  
APC building  
Harrisburg, PA 17102

  
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John L. Munsch  
Attorney for  
WEST PENN POWER COMPANY  
dba ALLEGHENY POWER  
Pa. I.D. No. 31489

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOV 26 2008

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Implementation of Act 129 of 2008  
Phase 2 – Registry of Conservation Service  
Providers

: Docket No. M-2008-2074154

COMMENTS OF WEST PENN POWER COMPANY  
d/b/a ALLEGHENY POWER

In a Secretarial Letter dated November 14, 2008, at the above-captioned docket, the Pennsylvania Public Utility Commission (“Commission”) requested comments on the experience and qualification standards that the Commission is required to establish for conservation service providers (“CSPs”) under Section 2806.2 of the Public Utility Code, 66 Pa.C.S. § 2806.2. West Penn Power Company d/b/a Allegheny Power (“Allegheny” or “the Company”) provides the following comments:

1. **What are the minimum qualification standards that the Commission should require to allow a person to be listed on the registry to be established under Section 2806.2(a)?**

Allegheny submits that the minimum criteria that a provider must demonstrate are: 1) financial strength, 2) professional experience, 3) proof of insurance, and 4) a performance bond. These requirements should be considered minimum requirements. The Commission should specifically allow electric distribution companies (“EDCs”) to impose additional requirements on individual CSPs warranted by the specific programs and services being contracted.

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**2. Should the minimum qualification standards include factors such as: technical training, professional experience, industry certifications, financial integrity, and/or history of lawful operations?**

Yes. Training, experience, certification, financial viability and history should all be factors in choosing a CSP as part of the application process.

**3. Should qualification standards, application materials, application requirements, and a contractor/dealer agreement similar to those used by Pennsylvania's Keystone HELP program ([www.keystonehelp.com](http://www.keystonehelp.com)) be adopted, and if so, what revisions to the Keystone HELP program would be needed?**

Allegheny believes that the agreement adopted by Keystone HELP is a good working model for the CSPs. Some of the standards and requirements for Keystone HELP contractor/dealer include:

- Personal and credit background check on owner(s).
- Investigate ownership and company (D&B and BBB reports).
- Minimum 3 years in business, history of financial stability and evidence (disclosure of financial records) of \$50,000 net worth or compensating factors.
- Good trade references considered in lieu of minimum 3 year requirement above.
- Application fee.
- Legal agreement.

**4. Should certain training or certifications be permitted to substitute for some or all minimum experience requirements?**

Allegheny has requirements of potential vendors when establishing a relationship. For example, the job safety rating of the contractor must comply with reasonable established percentages.

**5. What effect, if any, should be given to entities approved as conservation service**

**providers in other jurisdictions?**

Allegheny is not aware of other state requirements under which the Pennsylvania Commission might offer reciprocity. Allegheny points out that all its LIURP providers must be approved to perform business in Pennsylvania.

**6. Should bonding or a letter of credit be required? If so, what should be the minimum amount?**

The issue of the level of bonding is a sensitive issue. If bonding levels are set too high they will discourage or prevent some number of qualified entities from becoming CSPs, and if set too low the bonds do not perform a protective function.

“Crime Insurance” is a more common form of bonding as the term “bonding” is used here. It responds to theft, including mysterious disappearance. Since it is likely that CSPs will be in customers’ homes, Allegheny supports the requirement. \$10,000 is the amount Allegheny requires for contract employees coming on the Company’s site.

**7. Should insurance be required? If so, what type and what minimum amounts?**

Allegheny’s basic insurance requirement is \$3 million general liability, \$1 million auto, and workers compensation as required by law. The Company submits that these are reasonable insurance levels and are consistent with the Company’s LIURP program. Some smaller providers do not carry this much insurance and may argue that \$1 million of general liability insurance is sufficient. In general, the Company is willing to consider lower liability limits based on the type of work contemplated and the availability of contractors.

**8. Should background checks be performed? If so, what type?**

The standards and requirements of Keystone HELP provide for personal and credit

background checks.

**9. Should credit histories be required? If so, what should be disqualifying?**

The standards and requirements of Keystone HELP provide for a credit history check.

**10. Should customer or trade references be required? If so, what should be the minimum number of references?**

Trade references should be provided by potential CSPs for the past two or three years, with a maximum of five references. The standards and requirements of Keystone HELP provide that good trade references will be considered in lieu of the minimum business requirement

**11. Should satisfactory Better Business ratings be required?**

Allegheny suggests that Better Business Bureau ratings may be provided on an optional basis and evaluated on the total outcome of the complaint and customer response. The geographical locations of the complaints may be useful. Given the developing nature of the CSP role, the Better Business Bureau may not have experience with CSPs. Should a prospective CSP have a Better Business Bureau rating, it should feel free to provide it.

**12. What information should be included on an application form?**

Allegheny suggests that, at a minimum, the information included on the Keystone HELP Contractor/Dealer application, along with supporting information, be included on the CSP application form. Consistent with the Comments of the Energy Association of Pennsylvania, Allegheny suggests that CSPs provide the following information.

- Hold-harmless provision for state and any/all utilities.
- Completed PA state tax certification statement.
- Liability insurance and workers compensation insurance with a specified minimum amount of coverage Bonding.
- Financial fitness.
- Technical fitness (include officers, staffing and employee training, business plan(s), etc.).
- Affidavit of officer attesting to accuracy of information provided.
- Licenses or certifications.
- Name, address, phone number, fax number and email address of attorney representing the provider.
- Addresses, phone numbers, fax numbers and email address for key contact at each office location.
- Affiliates and/or predecessors in Pennsylvania.
- Proposed services provided to Pennsylvania EDCs, businesses, residents.
- Customers to be served.
- Service territories or geographic areas served.
- Examples of recent sales literature and/or advertising.

Allegheny also points out that the Keystone HELP program application does not include a small business provision required by the Small Business Administration, General Service Administration and state utility commissions under the Small Business Act (15 U.S.C. § 631).

**13. What documents should be provided with an application?**

See answer to No. 12.

**14. Should the Commission charge a registration fee? If so, what would be a reasonable registration fee?**

The Commission should charge a registration fee to cover its costs in performing

background and reference checks.

**15. Should there be a requirement for periodic re-qualification? If so, how often and how extensive should it be?**

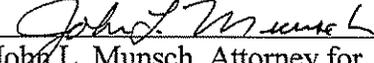
Potential CSPs should be re-evaluated on a one or two-year basis

**16. What other criteria should the Commission require?**

Allegheny believes that the list of CSPs requires flexibility and that Section 2806.2 does not require a finite list of CSPs. Rather there should be flexibility to allow potential CSPs not on the list to bid on EDC plans. If the CSP meets the requirements of the EDCs bid requirements and the EDCs standard terms and conditions, the bidder/prospective CSP could be accepted pending Commission approval of the contract between the CSP and EDC. Section 2806.1(a)(8) anticipates Commission pre-approval of contracts between EDCs and CSPs. Such flexibility within the Commission's list of CSPs could resolve two problems Allegheny sees with a fixed, finite list of CSPs. That is, Allegheny is concerned that the list will not be large enough to cover the more rural areas of Allegheny's service territory, and also that the list may not be diverse enough to fill the niche areas of energy conservation given the extensive list of "energy efficiency and conservation measures" contained in Section 2906.1(m).

Respectfully submitted,

Date: November 26, 2008

By:   
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